

Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

FAIR HOUSING CENTER OF
WASHINGTON,

Plaintiff,

v.

BREIER-SCHEETZ PROPERTIES, LLC, a
Washington corporation; and FREDERICK
BREIER-SCHEETZ, an individual,

Defendants.

No. 2:16-cv-00922-MAT

PLAINTIFF'S PETITION FOR AN ORDER
TO SHOW CAUSE WHY DEFENDANTS
SHOULD NOT BE HELD IN CIVIL
CONTEMPT AND FOR ACTUAL AND
PUNITIVE DAMAGES

Noted for Hearing: June 15, 2018

NOW COMES THE PLAINTIFF, the Fair Housing Center of Washington, and hereby moves this Honorable Court for entry of an Order to Show Cause why defendants Breier-Scheetz Properties, LLC and Frederick Breier-Scheetz should not be held in contempt of court for violating this Court's injunction entered October 6, 2017 (Docket Entry 61) by continuing to enforce a one-person per studio bedroom occupancy limit after this Court held that limit violated the Fair Housing Act, the Washington Law Against Discrimination, and the Seattle Municipal Code and permanently enjoined Defendants from continuing their illegal policy. Plaintiff is seeking immediate enforcement of this Court's injunctive relief order, additional compensatory damages, additional punitive damages, attorney's fees and other affirmative remedial relief. *See South Suburban Housing Center v. Berry*, 186 F.3d 851 (7th Cir. 1999). In support of this Motion, Plaintiff states:

PLAINTIFF'S PETITION FOR AN ORDER TO SHOW CAUSE
WHY DEFENDANTS SHOULD NOT BE HELD IN CIVIL
CONTEMPT (No. 2:16-cv-00922-MAT) - 1

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1 1. By Order dated May 12, 2017 (Docket Entry 42), this Court granted summary
2 judgment in favor of the Plaintiff in this housing discrimination case and held that, “Defendants’
3 one-person-per studio occupancy restriction at the Granada has a disparate impact on families
4 with children in violation of the Fair Housing Act, Washington Law Against Discrimination, and
5 Seattle Municipal Code.”

6 2. On June 2, 2017 (Docket Entry 43), Plaintiff filed a Supplemental Brief in
7 Support of Injunctive Relief, with attached Exhibits, seeking entry of a permanent injunction
8 prohibiting the continuance of the discriminatory one-person-per studio apartment occupancy
9 policy.

10 3. By Minute Order entered September 19, 2017 (Docket Entry 58), this Court
11 entered judgment on the actual damage award and further stated, “Injunctive relief will also be
12 awarded.”

13 4. On October 5, 2017, after an evidentiary trial on appropriate relief, this Court
14 awarded the Plaintiff \$27,302 in actual damages against the Defendants related to its diversion of
15 resources.

16 5. The Court also awarded Plaintiff \$100,000.00 in punitive damages against
17 Defendants after finding that the Defendants exhibited a “level of recklessness or callous
18 indifference to the fair housing rights of others, and that punitive damages are necessary to deter
19 future conduct.” Docket Entry 42, ¶ 9. The Court further held in finding 11:

20 Defendants’ stated justifications for their occupancy restriction
21 were insufficient. They maintained their illegitimate occupancy
22 restriction excluding families with children after FHCW filed its
23 complaint, after SOCR issued its findings of discrimination, after
24 FHCW filed this lawsuit, and after FHCW’s expert submitted an
25 unchallenged expert declaration showing the adverse impact on
26 families with children. On the basis of this evidence, the Court
27 awards punitive damages against Defendant Breier-Scheetz
Properties LLC’s and Frederick Breier-Scheetz in the total amount
of \$100,000. The Court concludes that these punitive damages are
‘both reasonable and proportionate to the amount of harm to the
plaintiff and to the general damages recovered.’ *State Farm Auto.*
Ins. Co. v. Campbell, 538 U.S. 408, 426 (2003).

6. On October 6, 2017 (Docket Entry 61), this Court entered judgment, including injunctive relief, ordering the following: “Defendants are forever permanently enjoined from enforcing any occupancy restriction which violates the Fair Housing Act, the Washington Law Against Discrimination, RCW 49.60.222(1), or the Seattle Open Housing Ordinance, Seattle Municipal Code 14.08.”

7. In blatant violation of this Court’s Orders and despite having a \$100,000 punitive damage award assessed against them, the Defendants have never changed their discriminatory occupancy policy and have continued **to this day** to exclude families with children by restricting occupancy of the studio apartments at the Granada to one person.

8. In accordance with this Court’s Order, Plaintiff Fair Housing Center of Washington recently conducted two tests of the Granada Apartments to see whether the Defendants had complied with the Court’s permanent injunction. More than six (6) months after judgment was entered, on April 24, 2018, at 1:30 pm, Plaintiff caused Tester #489 to respond to an advertisement on Craigslist for an available studio apartment at the Granada Apartments. The Tester spoke with a woman who answered the phone saying, “Granada Apartments this is Susie.” Plaintiff has reason to believe this was Granada Apartment Manager Susanne Harper, identified in the November 2016 Answers to Interrogatories (Docket 18, Ex. 1 to Declaration of Jesse Wing in Support of Motion for Summary Judgment) as its agent.

9. Tester #489 stated, “Hi Susie. I’m calling because I’m looking for a studio apartment for me and my son.” Susie responded, “**We only rent studios for one person.**” When the Tester told Susie that her son was only three months old, Susie replied “unfortunately its only allowed for one person.” See Declaration of Tester #489, attached hereto as Exhibit 1.¹

10. The same day at 2:39 pm on April 24, 2018, Tester #471 called Granada Apartments and spoke with Susie, saying she was looking for a studio apartment “for myself.” Susie informed Tester #471 that there was one unit available right now, referring to the unit as a

¹ This Court previously entered an Agreed Protective Order, allowing the Plaintiff to redact the names of its Testers. (Docket Entry 31.)

1 “super studio” of 560 sq. ft. and that it has a second room. Susie told Tester#471 that she should
 2 come in person to view the unit and then fill out an application. Declaration of Tester #471,
 3 attached hereto as Exhibit 2.

4 11. On May 7, 2018, the Plaintiff caused a second test to be conducted at the Granada
 5 Apartments. At 9:30 am, Tester #303 telephoned Granada Apartments and spoke with a woman
 6 who identified herself as “Susie Harper.” Tester #303 told Ms. Harper that she was looking for a
 7 studio apartment for her 4 ½ month old daughter and herself as soon as possible. Ms. Harper
 8 informed Tester #2 that there were no available units at that time and then stated that “**the**
 9 **studios are only for one person** and the one bedrooms are for two people but neither are
 10 available.” Declaration of Tester #303, attached hereto as Exhibit 3.

11 12. The Defendants’ complete disregard for this Court’s ruling that their conduct
 12 violates federal, state, and local law and discriminates against families with children, and their
 13 violation of the permanent injunction entered against them is a continuation of Defendants’
 14 reckless disregard for the rights of the Plaintiff and of families with children throughout the
 15 Seattle area. It is likely that scores of women and men with children have been turned away
 16 from the Granada subsequent to this Court’s findings and Order entered more than six (6)
 17 months ago.

18 13. The imposition of \$100,000.00 in punitive damages, \$27,302 in actual damages
 19 and \$184,741.01 in attorney’s fees (none of which Defendants have paid), and the issuance of a
 20 permanent injunction have done nothing to deter the Defendants from continuing to commit
 21 daily discriminatory conduct, which is an affront to this Court and to the administration of
 22 justice.

23 WHEREFORE, Plaintiff respectfully requests that this Court:

24 A. Issue an Order to Show Cause why the Defendants should not be held in contempt
 25 of this Court’s Order of October 6, 2017;

26 B. After a Finding of Contempt, enter an Order enforcing the injunction previously
 27 entered against Defendants under penalty of incarceration, and requiring Defendants to take

1 affirmative remedial action to notify persons rejected since October 2017 for occupancy as a
2 result of the Defendants' discriminatory policy and the general public, of their right to pursue a
3 remedy against Defendants under the Fair Housing Act, Washington Law Against
4 Discrimination, and Seattle Municipal Code;

5 C. After a Finding of Contempt, grant actual damages to the Plaintiff for its diversion
6 of resources;

7 D. After a Finding of Contempt, grant additional punitive damages against
8 Defendants in an amount in excess of \$1,000,000.00, necessary to punish Defendants' persistent
9 and willful intransigence and deter future violations;

10 E. Award Plaintiff their reasonable attorney's fees and costs associated with this
11 proceedings; and

12 F. Grant such other relief as this Court sees fit and just.

13 Respectfully submitted this 25th day of May, 2018.

14 MacDONALD HOAGUE & BAYLESS

15
16 By: /s/ Jesse Wing

17 Jesse Wing, WSBA #27751

18 JesseW@MHB.com

19 Jeffrey L. Taren, WSBA #50275

20 JeffreyT@mhb.com

CERTIFICATE OF SERVICE

I certify that on this date, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant:

George T. Hunter: gthunter7700@gmail.com

Dated: May 25, 2018

/s/ Jesse Wing

Jesse Wing, WSBA #27751